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IN LAKE CHARLES, LA.

DEC 5 2014

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAKE CHARLES DIVISION

TONY R. MOORE, CLERK  
BY [Signature] DEPUTY

ROGER THOMPSON,

Petitioner,

v.

UNITED STATES OF AMERICA

Defendant.

\* CIVIL ACTION NO. 2:13-cv-2841

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\* JUDGE MINALDI

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\* MAGISTRATE JUDGE KAY

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JUDGMENT

Before the court is the Report and Recommendation [Doc. 5] of the Magistrate Judge previously filed herein, to which the petitioner has filed an Objection [Doc. 6]. The court notes that at the time the petitioner filed his petition for *writ of habeas corpus* [Doc. 1] that the issue of whether *Alleyne v. United States* was retroactive had been decided by the Fifth Circuit, and thus, that issue was foreclosed by circuit law. *In re Kemper*, 735 F.3d 211 (5th Cir. 2013).

Therefore, for the reasons stated in the Report and Recommendation [Doc. 5] of the Magistrate Judge previously filed herein, after an independent review of the record, a *de novo* determination of the issues, and having determined that the findings are correct under applicable law,

**IT IS ORDERED** the petitioner's petition for *writ of habeas corpus* [Doc. 1], as amended by his petition for *writ of habeas corpus* [Doc. 4], be and hereby is **DISMISSED, WITH PREJUDICE.**

Lake Charles, Louisiana, this 4 day of Dec, 2014.

[Signature]  
PATRICIA MINALDI

UNITED STATES DISTRICT JUDGE